

ISSUE DATE: May 21, 1999

DOCKET NO. G-999/CI-97-145

DOCKET NO. E,G-999/CI-99-687

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ORDER INITIATING DEVELOPMENT OF UNBUNDLING PROGRAM AND
OPENING NEW INVESTIGATION DOCKET

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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Chair
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In the Matter of an Investigation into
Unbundling Natural Gas Services

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DOCKET NO. G-999/CI-97-145

In the Matter of an Investigation into Gas and
Electric Utility Unbundling/Retail
Choice/Restructuring

DOCKET NO. E,G-999/CI-99-687

In the Matter of an Investigation into
Outsourcing of Gas and Transportation
Procurement Functions

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UNBUNDLING PROGRAM AND
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DOCKET

PROCEDURAL HISTORY

In October, 1997, the Commission established a stakeholder work group to assist it in analyzing the costs, benefits, and feasibility of unbundling the sales and distribution functions of Minnesota's natural gas utilities.¹

On August 10, 1998, the Commission issued its ORDER REQUIRING IMPLEMENTATION PLAN in Docket No. G-999/CI-97-145. In that Order the Commission ordered the work group to address the following major issues: 1) would unbundling materially benefit Minnesota natural gas customers; and 2) if so, which customer classes would benefit. The Commission required the work group to develop, over the next year, a state-wide unbundling implementation plan for all local distribution companies (LDCs). At a minimum, the plan would address the following topics:

¹ In the Matter of a Petition to Establish Rules and Regulations for Natural Gas Consumer Choice, Docket No. G-999/R-97-1317, ORDER DENYING RULEMAKING PETITION AND CONVENING WORK GROUP (October 28, 1997).

- de-averaging of gas costs
- unbundling and disclosing on customer bills the cost of all elements of bundled LDC service
- universal service standards, consumer education and protection, and adequate funding of conservation programs
- expansion of the availability of transportation service to larger, high load factor customers, perhaps through aggregation
- operational standards and systems necessary for successful unbundling, such as electronic bulletin boards, web sites, and other scheduling and information systems

On October 21, 1998, North Star Steel Company, on behalf of Minnesota Energy Consumers (MEC), filed a letter suggesting that a Commissioner chair the unbundling work group. MEC stated that appointing a Commissioner as chair would signal the Commission's intention that the work group achieve significant progress toward unbundling.

No other party filed comments. No work group meetings took place.

On May 6, 1999, the matter came before the Commission for consideration. Representatives of Reliant Energy Minnegasco, Northern States Power Company, MEC, Enron Capital and Trade Resources (Enron), UtiliCorp United, Inc. (UtiliCorp), the Department of Public Service (the Department), and the Residential and Small Business Utilities Division of the Office of Attorney General (RUD-OAG) spoke at the meeting.

FINDINGS AND CONCLUSIONS

I. COMMENTS OF THE PARTIES

A. The Utilities, MEC, and Enron

The utilities, MEC (a group of large energy consumers), and Enron (an energy marketing service provider) agreed that stakeholders should continue to study the costs and benefits of gas unbundling in some forum. Most parties agreed that an informal study group, which could meet regularly or on an as-needed basis, would provide the best format for further unbundling study.

The parties indicated the need for focus in the study sessions, regardless of the study format chosen by the Commission. UtiliCorp suggested that the Commission center the study of unbundling around four major issues: 1) system reliability; 2) provider of last resort; 3) stranded costs; and 4) results of other states' unbundling efforts.

Most parties believed that some form of unbundling will eventually take place in Minnesota. The parties stated that the Commission and stakeholders must develop an unbundling implementation plan that provides sufficient time and support for utilities and sufficient protections for consumers.

The utilities, MEC, and Enron, along with other commenting parties, agreed that it would be impossible at this juncture to develop an unbundling implementation plan by the original target date of August 1, 1999.

B. The Department of Public Service

The Department of Public Service voiced its support for the concept of gas unbundling, while cautioning against a piecemeal development approach. The Department stated that a comprehensive, statewide approach is necessary to achieve gas unbundling without attendant harm to ratepayers. The Department intends to develop such statewide unbundling principles in time to present for consideration in the 2001 legislative session. While the agency's primary focus will be on electric utility restructuring/unbundling, it will also address gas unbundling in the forthcoming plan. Both electric and gas utilities must be considered in an unbundling initiative in order to maintain a level playing field in an often interdependent energy arena.

C. The RUD-OAG

The RUD-OAG noted that gas unbundling issues are technically complex and may necessitate changes in rate design and transactional cost considerations for fair and equitable resolution. The RUD-OAG also observed that performance based regulation (PBR) programs and other savings-capturing regulatory techniques may gradually become more cost-effective. For these reasons, relying solely on work group development of an unbundling implementation plan may be ill-advised. The RUD-OAG advocated looking to other, short-term means of capturing the benefits of a more competitive gas environment. The RUD-OAG suggested that the Commission launch this new direction by considering utility outsourcing of gas procurement and transportation functions. The Commission could examine the merits of the outsourcing option as it continues to develop a comprehensive unbundling plan.

I. COMMISSION ACTION

A. The Gas Unbundling Plan

Since the gas industry has begun moving from the traditional monopoly regulatory mode, the Commission has analyzed various regulatory tools to capture the benefits of increased competition for energy consumers. In this docket, the Commission has gathered stakeholder input on the merits of one such regulatory tool--gas unbundling. As the Commission stated in its August 10, 1998 Order:

The Commission agrees with most of the stakeholders that unbundling merits further analysis and consideration. It has become increasingly clear over the last decade that market forces can be powerful and versatile components of, or substitutes for, economic regulation.

Where competition operates effectively, it clearly drives down price, improves quality, and spurs technological innovation. Proponents of unbundling claim competition can operate effectively in the retail natural gas market. The Commission has a duty to examine this claim to ensure that Minnesota consumers continue to receive the lowest priced, most reliable, most consumer-driven natural gas service possible. The issue is how to develop the facts necessary to critically evaluate this claim.

Order at p. 4.

It is now clearly time to move beyond the broad policy stage and into the development of concrete gas unbundling principles. Only through the development of such principles--with some detail regarding structure, implementation, and timing-- can stakeholders, regulators, legislators, and the public debate intelligently the costs, merits, and drawbacks of gas unbundling.

The Department has stated that it will develop a gas and electric utility restructuring/unbundling program in time for consideration by the 2001 state legislature. The Commission welcomes the Department's commitment of its resources, expertise, and experience to this pursuit. The Commission agrees with the Department that fair, equitable, and forward-looking gas unbundling principles can best be developed in the context of a comprehensive gas and electric unbundling/retail choice/restructuring program.

The Commission sees no need to continue the gas unbundling work group in the face of this major policy initiative by the Department. The Commission will therefore close its current gas unbundling investigation, freeing regulatory and stakeholder energy and resources to assist the Department in achieving the best possible gas and electric unbundling policy approach.

Although the Commission is closing its gas unbundling investigation, stakeholders should note that the Commission remains fully committed to this policy initiative and that it expects participants to give the Department their full attention and cooperation. To underscore these points, the Commission will direct the Department to conduct the investigation it has described and to report periodically on the investigation's progress. This will clarify that the two agencies are in accord on the need for careful study of these issues, that the Department's investigation is the chosen vehicle, and that stakeholders who wish to join the debate should enter the process now.

B. The RUD-OAG's Outsourcing Model

Reaction at the meeting to the RUD-OAG's gas procurement outsourcing suggestion was immediate and heartfelt. The utilities present expressed initial concerns with the outsourcing suggestion; all parties agreed that the Commission should move carefully as it explores the ramifications of the RUD-OAG's policy suggestion. All parties agreed to take part in any further Commission consideration of the outsourcing idea.

The Commission welcomes the RUD-OAG's commitment to a multi-faceted approach to unbundling/restructuring issues; the parties' interest in the RUD-OAG's suggestions; and the parties' willingness to contribute to exploration of the ideas presented. To obtain the greatest possible input for any consideration of procurement outsourcing, the Commission will open a new investigative docket. The Commission will launch the investigation with a comment period to gather parties' reactions and analysis of the main issues raised by the outsourcing concept.

ORDER

1. The Commission initiates a new docket, No. E,G-999/CI-99-687, to investigate issues of unbundling/retail choice/restructuring in the gas and electric utility industries. The Commission directs the Department of Public Service, with the help of stakeholders, to develop a statewide, comprehensive program for gas and electric utility unbundling/retail choice/restructuring by January 1, 2001, in time to present a written legislative proposal on these issues to the 2001 legislature. In the interim, the Department should file with the Commission periodic progress reports on the development of the plan. Those reports should be filed by October 1, 1999, and March 1 and September 1, 2000.
2. The Commission initiates a new docket, G-999/CI-99-688, to investigate outsourcing of gas utilities' gas and transportation procurement functions. Within 50 days of the date of this Order (if no petition for reconsideration is filed in this proceeding), or within 30 days of the date of the Commission's Order after reconsideration (if a petition for reconsideration is filed), interested parties shall file comments which address at least the following issues:
 - a. Explain the difference between outsourcing the entire natural gas procurement function and outsourcing the short-term management of an LDC's pipeline capacity contracts.
 - b. What are the potential costs and benefits of outsourcing the entire natural gas procurement function through competitive bidding?
 - i. Is outsourcing an efficient way to capture the economic benefits of competition for natural gas consumers?

- ii. How would the costs and benefits of outsourcing compare to: 1) the current practice of using competitive bidding for individual supply, storage and transportation contracts; and 2) retail choice?
 - c. Is the implementation of outsourcing feasible? For example, are there impediments related to the following areas that the Commission should be aware of:
 - i. Legal and regulatory
 - ii. Corporate strategic business plan and culture
 - iii. LDC operations and reliability of service, including the operation of LDC-owned peak-shaving facilities, and
 - iv. LDC administration
 - d. Provide references or examples from Minnesota and other jurisdictions where outsourcing the entire natural gas procurement function has been tried, where it has worked and where it has been discontinued or modified. For example, if there are instances where outsourcing has been discontinued, please explain how gas procurement is currently handled.
 - e. Is there anything else the Commission should be aware of with respect to outsourcing?
3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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